

ORIGINAL

STATE OF INDIANA

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INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE INVESTIGATION)
ON THE COMMISSION'S OWN MOTION INTO))
ANY AND ALL MATTERS RELATING TO)
LOCAL TELEPHONE EXCHANGE)
COMPETITION WITHIN THE STATE OF)
INDIANA)

CAUSE NO. 39983

APPROVED:

JUN 15 1994

BY THE COMMISSION:

Mark W. Cooper, Chief Administrative Law Judge

This Commission is aware through information received from many sources of the potential of impending competition within the exchanges of local exchange telephone companies within the State of Indiana. Local competition is an issue of considerable importance to both the providers of telecommunications services within the State of Indiana and their customers and it is certain to come before this Commission. This issue has also come to the attention of the Indiana Telephone Association, Inc. ("ITA"). The Commission has received a letter from the President of the ITA under date of May 2, 1994 on the matter of local exchange competition. The ITA suggests that the Commission may consider availing itself of workshops to gather information and determine the issues pertinent to local exchange competition within the State of Indiana.

After informally considering information on the potential of local exchange competition and the request of the ITA, the Commission believes there to be numerous issues relating to and arising from local competition which may affect Indiana telecommunications providers, their services and their customers. Considering these factors the Commission finds that an investigation should be commenced into all matters relating to local telephone exchange competition within the State of Indiana.

Based upon the foregoing and the applicable law, the Commission now finds as follows:

1. Commission Jurisdiction. The Commission is given broad discretion to investigate matters pertinent to public utilities within the State of Indiana. IC 8-1-2-58 reads, in pertinent part, as follows:

Whenever the commission shall believe that...an investigation of any matter relating to any public utility should for any reason be made, it may, on its own motion, summarily investigate the same, with or without notice.

We administratively know that the vast majority of the providers of telecommunications services within the State of Indiana are public utilities within the meaning of IC 8-1-2 et seq. Clearly the potential of local exchange competition and its effects on the telecommunications providers and their customers falls within the purview of "...any matters relating to any public utility..." as established by IC 8-1-2-58. The Commission has jurisdiction over the subject matter herein and over all public utility providers of telecommunications services within the State of Indiana.

We are also administratively aware that there are certain providers of local exchange telephone service within the State of Indiana formed pursuant to IC 8-1-17 et seq., rural telephone cooperatives, which have withdrawn from the Commission's jurisdiction pursuant to IC 8-1-17-22.5. However, IC 8-1-17-22.5(j)(5) provides that the Commission retains jurisdiction even over these rural telephone cooperatives for matters relating to their certificates of public convenience and necessity. Clearly matters of local exchange competition relate to the existence, propriety and extent of any local exchange provider's certificate of public convenience and necessity. Therefore, for purposes of the issues which are the subject matter of this proceeding we find that we have jurisdiction over rural telephone cooperatives formed pursuant to IC 8-1-17 et seq.

Further, while this Commission has declined to exercise its jurisdiction in part over the providers of many types of telecommunications services we have uniformly and routinely retained jurisdiction over those providers' respective certificates of public convenience and necessity. We have also generally retained jurisdiction as to interconnection matters, governed pursuant to IC 8-1-2-5, between the several types of telephone providers operating within the State of Indiana. Based on these generally retained areas of jurisdiction, we find that we have jurisdiction over these types of telecommunications providers on matters pertinent to local exchange competition.

Based upon the foregoing findings, the Commission finds that it has jurisdiction over the subject matter of this Cause and the providers of telecommunications services within the State of Indiana for the purposes of this Cause.

2. Commission Discussion and Findings. Based upon the information relating to and our knowledge of the emerging potential for local exchange telephone competition and the ITA's request that the Commission consider this matter, we find that an investigation should be commenced, on the Commission's own motion, pursuant to IC 8-1-2-58 and related statutes, into all matters relating to local exchange competition within the State of Indiana.

Given the potentially far-reaching impacts and ramifications of local exchange competition, we find that all providers of

telecommunications services within the State of Indiana and under the jurisdiction of this Commission, as found herein, should be named Respondents in this Cause. As such, these Respondents should be served with a copy of this Order.

The purpose of this investigation, and its resultant hearings, is to allow the Commission to hear and consider evidence pertinent to any and all matters related to local exchange competition within the State of Indiana and the positions of all potentially affected parties. To accomplish this end the Commission desires to establish a process and procedure to be operative in this Cause so as to allow the parties to communicate amongst themselves and present their respective positions to the Commission in an orderly fashion. Given the past successes of the committee approach, the Commission has considered the creation of an executive committee which might be responsible for the formation of appropriate subcommittees and the conducting of appropriate workshops. The parties should come to the initial hearing prepared to offer suggestions and comments as to the appropriate procedures for the orderly gathering and presentation of information. The parties' suggestions may include any preferable alternative to the committee approach suggested herein.

The Commission is also aware that there are many and varied issues which should properly be considered in the context of any investigation into local exchange competition. The parties appearing at the initial hearing should be prepared to offer their respective suggestions as to the appropriate issues to be considered by the Commission in the context of this investigation.

In order to provide for a procedural format and procedural schedule and to initially define the issues pertinent to this Cause we find that a preliminary hearing and prehearing conference should be held in this Cause on August 19, 1994, at 9:30 A.M., EST, in Room TC10, Indiana Government Center South, 302 West Washington Street, Indianapolis, Indiana. All parties desiring to actively participate in this proceeding should appear at that hearing or if unable to appear at that hearing notify the Commission in writing of their intent to participate prior to the date of that hearing. Any party failing to appear at the hearing or notify the Commission of their intent to participate may be deleted from the service list in this Cause.

In order to facilitate the orderly receipt of comments and suggestions at the initial hearing the parties should reduce their respective comments and suggestions to writing for submission at the hearing.

IT IS THEREFORE ORDERED BY THE INDIANA UTILITY REGULATORY COMMISSION that:

1. An investigation shall be, and hereby is commenced, on

the Commission's own motion, pursuant to IC 8-1-2-58 and related statutes, into all matters relating to local exchange competition within the State of Indiana.

2. All providers of telecommunications services within the State of Indiana, consistent with Finding No. 1 above, shall be, and hereby are made respondents to this Cause.

3. A preliminary hearing and prehearing conference shall be held in this Cause on August 19, 1994, at 9:30 A.M., EST, in Room TC10, Indiana Government Center South, 302 West Washington Street, Indianapolis, Indiana. All parties desiring to actively participate in this proceeding shall appear at the hearing or if unable to appear at that hearing notify the Commission in writing of their intent to participate prior to the date of the hearing.

4. Any party appearing at the hearing and desiring to offer comments and suggestions as to any matter relating to this investigation, shall reduce their respective comments and suggestions to writing for submission at the preliminary hearing and prehearing conference.

5. This Order shall be effective on and after the date of its approval.

MORTELL, CORBAN AND ZIEGNER CONCUR; HUFFMAN AND KLEIN ABSENT:
APPROVED:

I hereby certify that the above is a true
and correct copy of the Order as approved.

JUN 15 1994



Ruth Ann Townsend, Secretary to the
Commission and Executive Director